

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

BRIAN TIMOTHY BRANTLEY,

Plaintiff,

v.

Case No: 2:12-cv-361-Ftm-99SPC

DRUG ENFORCEMENT
ADMINISTRATION,

Defendant.

ORDER

This matter comes before the Court on the Plaintiff, Brian Brantley's Motion for Entry of a Clerk's Default (Doc. #24) filed on March 20, 2013. Under Fed. R. Civ. P. 55(a), default is justified "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise appear by affidavit or otherwise, the clerk shall enter the party's default."

As grounds for entry for a Clerk's Default, the Plaintiff states that the Defendant DEA was served on September 18, 2012, and was therefore required to answer by November 17, 2012. When the Defendant did not answer by November 17, 2013, the Plaintiff filed a Motion for Clerk's Default. (Doc. # 17). On December 17, 2012, the Court denied the Plaintiff's initial Motion for a Clerk's Default because the Plaintiff's original service upon the Defendant was ineffectual. The Court instructed the Plaintiff that in order to serve the United States or an agency of the United States like the DEA, the Plaintiff had to serve the U.S. Attorney in the district where the law suit was filed and the Attorney General of the United States. Fed. R. Civ. P. 4(i)(1)(2).

The Plaintiff was then directed to serve the U.S. Attorney for the Middle District of Florida and the United States Attorney General as required by Fed. R. Civ. P. 4(i)(1)(2). The

Clerk re-issued the Plaintiff's summons and directed the U.S. Marshal's Service to effect service in accord with the Federal Rules.

On January 8, 2013, the U.S. Marshal's Service served the U.S. Attorney for the Middle District of Florida. On January 15, 2013, the U.S. Marshal's Service subsequently served the United States Attorney General. As noted by the Plaintiff in his Motion, an agency of the United States, like the DEA, has sixty (60) days to file an answer or otherwise respond to a complaint. In this case, the Defendant DEA filed its Answer and Affirmative Defenses on March 1, 2013, well within the deadline for the DEA to answer under the Federal Rules. Thus, the Motion for Clerk's Default is due to be denied.

Accordingly, it is now

ORDERED:

The Plaintiff, Brian Brantley's Motion for Entry of a Clerk's Default (Doc. #24) is **DENIED**.

DONE and **ORDERED** in Fort Myers, Florida this 22nd day of March, 2013.


SHERI POLSTER CHAPPELL
UNITED STATES MAGISTRATE JUDGE

Copies: All Parties of Record